IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 4027 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

KABRASTAN AND ROZA TRUST

Versus

THE LEGAL HEIRS OF THE DECEASED PATEL BHIKHABHI PRABHUDAS AND ORS.

Appearance:

MR AJ MEMON for the petitioner.

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 00/03/2000

C.A.V.JUDGEMENT

1. Heard learned counsel for the petitioner. This writ petition deserves to be dismissed mainly on two grounds. Firstly, on the ground of delay and secondly, on the ground that the orders of the respondents no. 7 and 8, challenged in this Special Civil Application, are

only interlocutory orders and no final orders deciding the application of the respondents no. 1 to 6 filed under section 22 A of the Bombay Public Trust Act,1950 have been made so far. While challenging the final decision given by the Authorities under Section 22 A of the Bombay Public Trust Act, 1950 before the Authority above the Joint Charity Commissioner, it is open to the petitioner to challenge these interlocutory order also. The order of the Joint Charity Commissioner, Ahmedabad challenged in this Special Civil Application is dated 5.5.1992. This Special Civil Application is filed by the petitioner in the Court on 8th May, 1998, so there is delay of more than 6 years in filing of the Special Civil Application. For this inordinate delay no explanation whatsoever has been furnished by the petitioner in this Special Civil Application. The learned counsel for the petitioner contended that the petition has been drafted earlier, but the papers were misplaced in his office and same could not be presented in time. However, no such explanation has been furnished in this Special Civil Application. Otherwise also, if we go by the facts of this case, the petition has been drafted and verified on 20th March,1995. So if we go by these facts, there was delay by that time also of more than 2 years and 8 months. Taking into consideration all the facts of this case and examining the matter from any aspect, this inordinate delay in presenting the Special Civil Application is not explained.

2. In the result, this Special Civil Application fails and same is dismissed.

(S.K.Keshote, J)

(Vipul)